

Notice of Allowability

Application No.

10/528,892

Applicant(s)

HOSHINO ET AL.

Examiner

Christian L. Fronda

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the amendment dated 09/17/2007.
2. ☒ The allowed claim(s) is/are 1,3 and 5-8.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☒ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input checked="" type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

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NOTICE OF ALLOWABILITY

1. The after-final amendment dated 09/17/2007 has been considered and entered.
2. Claims 1, 3, 5-8 are allowed.
3. The following is an examiner's statement of reasons for allowance:
Following a diligent search it was determined that prior art neither teaches nor suggests the claimed *Sinorhizobium meliloti* IFO 14782/pVK601, *Sinorhizobium meliloti* PY-C341K1, and *Sinorhizobium meliloti* PY-EGC1 and process for producing vitamin B6 using these microorganisms.

Requirement for the Deposit of Biological Material

4. The examiner acknowledges applicants' written assurance in the amendment dated 09/17/2007 that the claimed *Sinorhizobium meliloti* IFO 14782/pVK601 and *Sinorhizobium meliloti* PY-C341K1 are being deposited in accordance with the Budapest Treaty. The examiner acknowledges applicants' statement that access to the deposits will be made available to the Commissioner upon request during pendency of the application and all restrictions on the availability of the deposited material to the public will be irrevocably removed upon granting of a patent.
5. Applicants are required to complete the deposit of the claimed *Sinorhizobium meliloti* IFO 14782/pVK601 and *Sinorhizobium meliloti* PY-C341K1 in order to satisfy the requirements of 35 U.S.C. 112, first paragraph, prior to the date the issue fee is due. Applicants are reminded that the Budapest Treaty has a requirement for viability testing, and that a letter from an International Depositary Authority (IDA) indicating that the deposit of *Sinorhizobium meliloti* IFO 14782/pVK601 and *Sinorhizobium meliloti* PY-C341K1 has been made under the Budapest Treaty and accepted by the IDA with the accompanying deposit numbers is required to provide evidence of the viability of the deposited biological material.

Failure to make the needed deposit in accordance with this requirement will be considered a failure to prosecute the application under 35 U.S.C. 133 and result in abandonment of the application.

Once the deposit has been made, information regarding the deposit, such as the name and address of the depository, the accession number and the date of the deposit, that is to be added to the specification must be added by means of filing an amendment under the provisions of 37


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CFR 1.312. Such an amendment must be filed before or with the payment of the issue fee.

Therefore, applicants need to make any necessary deposit of biological material well prior to payment of the issue fee such that the accession number is received with sufficient time remaining to amend the specification as required by 37 CFR 1.809(d) on or before the date the issue fee payment is paid. See MPEP 2411.03.

6. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christian L. Fronda whose telephone number is (571)272-0929. The examiner can normally be reached Monday- Friday from 9:00AM - 5:00PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapura N. Achutamurthy can be reached on (571)272-0928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.
8. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CLF


TEKCHAND SAIDHA
PRIMARY EXAMINER